

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

**JESSIE RECHALL WARE,**

Plaintiff,

v.

**No. 22-CV-107-JFH-JAR**

**LEFLORE COUNTY JAIL,  
KATHERINE LNU, GARY  
SUMMERS, CECILY LNU,  
and TIFFANY HASTINGS,**

Defendants.

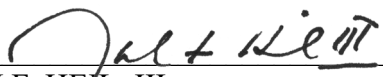
**OPINION AND ORDER**

Plaintiff has named the LeFlore County Jail as one of the defendants in this civil rights action pursuant to 42 U.S.C. § 1983. He has not, however, made specific factual claims against the jail and has not demonstrated why this governmental sub-unit is a suable entity. The capacity of an entity to be sued is determined by the law of the state in which the federal district court is located. Fed. R. Civ. P. 17(b).

Under Oklahoma law, “any person, corporation, partnership, or unincorporated association [has] capacity to . . . be sued in this state.” Okla. Stat. tit. 12, § 2017(B). While the Oklahoma courts have not addressed in a published opinion the issue of whether a jail or prison has capacity to be sued, the Tenth Circuit Court of Appeals has held in an unpublished opinion that “the Creek County Criminal Justice Center is not a suable entity under § 1983.” *Hinton v. Dennis*, 362 F. App’x 904, 907 (10th Cir. Jan. 25, 2010) (citing *Martinez v. Winner*, 771 F.2d 424, 444 (10th Cir. 1985)).

THEREFORE, Defendant LeFlore County Jail is DISMISSED from this action pursuant to 28 U.S.C. § 1915A(b)(1) for failure to state a claim upon which relief may be granted.

IT IS SO ORDERED this 26<sup>th</sup> day of July 2022.

  
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JOHN F. HEIL, III  
UNITED STATES DISTRICT JUDGE